

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WICKIE TUTT,)
)
Petitioner,)
) Civil Action No. 08-255 Erie
v.)
)
PROSECUTOR'S OFFICE, et al.,)
)
)
Respondents.)

MEMORANDUM ORDER

This habeas corpus action was received by the Clerk of Court on September 10, 2008 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [ECF No. 35], filed on February 28, 2011, recommended that Petitioner's Amended Petition for Writ of Habeas Corpus [ECF No. 22] be denied and that a certificate of appealability be denied. The parties were allowed fourteen (14) days from the date of service to file objections. Service was made on Petitioner by certified mail and on Respondents. Petitioner was granted two (2) extensions of time in which to file objections [see Text Orders dated March 17, 2011 and April 19, 2011]; however, at the time of the Court's review, no objections had been filed.

Objections were subsequently filed by the Petitioner on May 11, 2011 [ECF No. 39], which the Court has reviewed nunc pro tunc. After de novo review of the amended petition and documents in the case, together with the Report and Recommendation and the objections thereto, the following order is entered:

AND NOW, this 16th day of May, 2011;

IT IS HEREBY ORDERED that the Petitioner's Amended Petition for Writ of Habeas Corpus [ECF No. 22] is DENIED and a certificate of appealability is DENIED.

The Report and Recommendation [ECF No. 35] of Magistrate Judge Baxter, filed on February 28, 2011 is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge